

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VERSUS

CRIMINAL ACTION NO. 1:11cr103-HSO-JMR-002

JAVIER MOLINA

**DEFENDANT MOLINA'S MOTION TO SUPPRESS**

Pursuant to Rule 12(b) and Rule 41(f) of the Federal Rules of Criminal Procedure and the Fourth Amendment of the United States Constitution, Javier Molina respectfully moves this Court to enter an order suppressing all evidence seized and any and all statements made in connection with the unlawful warrantless placement of the GPS tracking device on the vehicle he was driving. The warrantless placement and use of the GPS device amounts to physical intrusion of a constitutionally protected area. *United States v. Jones*, 132 S. Ct. 945 (2012). Therefore all statements obtained from Molina as well as all evidence seized should be suppressed as fruit of the poisonous tree under *Wong Sun v. United States*, 371 U.S. 471 (1963). This motion is based upon the attached Memorandum of Law in Support of Motion to Suppress.

WHEREFORE, for the reasons set forth above, the defendant respectfully requests that his motion be granted and that the evidence and statements obtained as a result of the seizure and search of the defendant and the vehicle on November 1, 2011 be suppressed.

A hearing is requested on this motion. Further, the defendant requests leave to submit further briefing on the motion after the facts have been more fully developed.

Respectfully submitted, this the 4th day of April, 2012.

S. DENNIS JOINER  
Federal Public Defender

By: /s/John W. Weber, III  
John W. Weber, III, MS Bar #101020  
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Southern District of Mississippi  
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### **CERTIFICATE OF SERVICE**

I, John W. Weber, III, certify that I have this day electronically filed the foregoing Response with the Clerk of the Court using the ECF system which sent notification of such filing to all parties of record.

So Certified, this the 4th day of April, 2012.

By: /s/John W. Weber, III  
JOHN W. WEBER, III